

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 REBECCA BARRICK,

11 v. Plaintiff,

12 AMERICAN AIRLINES, INC.,

13 Defendant.

14 CASE NO. C16-5957-JCC

15 ORDER DENYING
16 DEFENDANT'S MOTION FOR A
17 PROTECTIVE ORDER AND
18 GRANTING PLAINTIFF'S
19 MOTION TO AMEND

20 This matter comes before the Court on Defendant American Airline's motion for a
21 protective order (Dkt. No. 35) and Plaintiff Rebecca Barrick's motion to amend (Dkt. No. 33).
22 Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral
23 argument unnecessary and hereby DENIES the motion for a protective order and GRANTS the
24 motion to amend for the reasons explained herein.

25 **I. BACKGROUND**

26 On an American Airlines flight from Seattle to Philadelphia, Plaintiff's chest was burned
27 by a bag of dry ice. (Dkt. No. 31 at ¶¶ 6–10.) After, she filed this negligence and gross
28 negligence action against Defendant. (See Dkt. No. 31.) Defendant responded to her amended
29 complaint, admitting that it is “liable for all of Ms. Barrick's proximately caused damages.”
(Dkt. No. 39 at 2; *see also* Dkt. No. 32 at ¶¶ 10, 14, 17, 18, 22, 23, 25.) Defendant has filed a

ORDER DENYING DEFENDANT'S MOTION
FOR A PROTECTIVE ORDER AND GRANTING
PLAINTIFF'S MOTION TO AMEND

PAGE - 1

1 motion for a protective order to limit Plaintiff's discovery requests to relevant information about
2 damages. (Dkt. No. 35.) Plaintiff also filed a motion to amend her complaint a second time. (Dkt.
3 No. 33.)

4 **II. DEFENDANT'S MOTION FOR A PROTECTIVE ORDER**

5 "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any
6 party's claim or defense and proportional to the needs of the case." Fed. R. Civ. P. 26 (b)(1).
7 However, "the court must limit the frequency or extent of discovery [if] . . . the proposed
8 discovery is outside the scope permitted by Rule 26(b)(1)." Fed. R. Civ. P. 26 (b)(2)(C). "The
9 court may, for good cause, issue an order to protect a party from . . . undue burden or expense."
10 Fed. R. Civ. P. 26 (c)(1). When a defendant admits liability for all damages caused to a plaintiff,
11 the court may limit discovery to damages. *See Broncel v. H & R Transp., Ltd.*, 2011 WL 319822,
12 (E.D. Cal. Jan. 28, 2011) (holding that plaintiff was not entitled to depose defendant Wilson
13 because the defendants had already admitted liability); *Ayat v. Societe Air France*, 2008 WL
14 114936, (N.D. Cal. Jan. 8, 2008) (holding that further discovery into liability was not warranted
15 because the defendant did not contest liability and only asserted three affirmative defenses, all
16 related to damages).

17 Here, Defendant seeks a protective order to limit discovery to damages. (Dkt. No. 35.)
18 However, Plaintiff maintains that she is entitled to more expansive discovery because Defendant
19 "has not admitted liability to most of Plaintiff's claims, and has expressly denied most of the
20 offending actions." (Dkt. No. 37 at 4.) Plaintiff's argument is persuasive because Defendant has
21 only admitted to liability for all of Plaintiff's *proximately caused* damages. (See Dkt. Nos. 32,
22 35, 41.) While Defendant's admission is helpful to Plaintiff, there is some vagueness as to the
23 admission. Defendant admits to liability for *proximately caused* damages, but does not stipulate
24 it is in fact the cause of such damages. If Plaintiff is not entitled to discover the circumstances
25 that led to her injury, she would be at a significant disadvantage in this litigation. While this
26

1 causation issue is unresolved, the Court will prudently leave discovery open. Defendant's motion
2 for a protective order limiting discovery to damages is DENIED.¹

3 **III. PLAINTIFF'S MOTION TO AMEND**

4 The Court is afforded discretion and "should freely give leave [to amend] when justice so
5 requires." Fed. R. Civ. P. 15(a)(2). When deciding whether leave should be granted, "[f]ive
6 factors are taken into account . . . bad faith, undue delay, prejudice to the opposing party, futility
7 of amendment, and whether the plaintiff has previously amended the complaint." *Johnson v.*
8 *Buckley*, 356 F.3d 1067, 1077 (9th Cir. 2004).

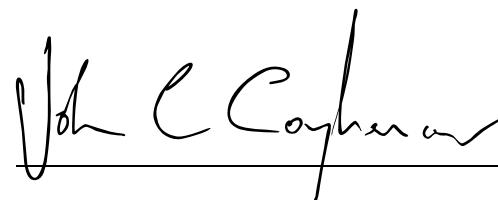
9 Plaintiff's motion to amend builds on the issue of causation, and thus is not futile. The
10 amendment is minimal, but the proposed complaint does allege with more specificity the types of
11 harm suffered by Plaintiff, specifically emotional damages. (See Dkt. No. 33-3 at ¶ 26.) This
12 newly alleged harm demonstrates a need for more expansive discovery into its cause. Plaintiff
13 has previously amended her complaint, but the Court concludes the proposed amendment is not
14 futile, nor is it unfair. Thus, the Court GRANTS Plaintiff's motion to amend her complaint.

15 **IV. CONCLUSION**

16 For the foregoing reasons, Plaintiff's motion to amend (Dkt. No. 33) is GRANTED, and
17 Defendant's motion for a protective order (Dkt. No. 35) is DENIED. Plaintiff is ORDERED to
18 file her second amended complaint (Dkt. No. 33-3) within 7 days of this order.

19 DATED this 8th day of August 2017.

20
21
22
23
24



25 John C. Coughenour
26 UNITED STATES DISTRICT JUDGE

27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
3310
3311
3312
3313
3314
3315
3316
3317
3318
3319
3320
3321
3322
3323
3324
3325
3326
3327
3328
3329
3330
3331
3332
3333
3334
3335
3336
3337
3338
3339
3340
3341
3342
3343
3344
3345
3346
3347
3348
3349
3350
3351
3352
3353
3354
3355
3356
3357
3358
3359
3360
3361
3362
3363
3364
3365
3366
3367
3368
3369
33610
33611
33612
33613
33614
33615
33616
33617
33618
33619
33620
33621
33622
33623
33624
33625
33626
33627
33628
33629
33630
33631
33632
33633
33634
33635
33636
33637
33638
33639
33640
33641
33642
33643
33644
33645
33646
33647
33648
33649
33650
33651
33652
33653
33654
33655
33656
33657
33658
33659
33660
33661
33662
33663
33664
33665
33666
33667
33668
33669
33670
33671
33672
33673
33674
33675
33676
33677
33678
33679
33680
33681
33682
33683
33684
33685
33686
33687
33688
33689
33690
33691
33692
33693
33694
33695
33696
33697
33698
33699
336100
336101
336102
336103
336104
336105
336106
336107
336108
336109
336110
336111
336112
336113
336114
336115
336116
336117
336118
336119
336120
336121
336122
336123
336124
336125
336126
336127
336128
336129
336130
336131
336132
336133
336134
336135
336136
336137
336138
336139
336140
336141
336142
336143
336144
336145
336146
336147
336148
336149
336150
336151
336152
336153
336154
336155
336156
336157
336158
336159
336160
336161
336162
336163
336164
336165
336166
336167
336168
336169
336170
336171
336172
336173
336174
336175
336176
336177
336178
336179
336180
336181
336182
336183
336184
336185
336186
336187
336188
336189
336190
336191
336192
336193
336194
336195
336196
336197
336198
336199
336200
336201
336202
336203
336204
336205
336206
336207
336208
336209
336210
336211
336212
336213
336214
336215
336216
336217
336218
336219
336220
336221
336222
336223
336224
336225
336226
336227
336228
336229
336230
336231
336232
336233
336234
336235
336236
336237
336238
336239
336240
336241
336242
336243
336244
336245
336246
336247
336248
336249
336250
336251
336252
336253
336254
336255
336256
336257
336258
336259
336260
336261
336262
336263
336264
336265
336266
336267
336268
336269
336270
336271
336272
336273
336274
336275
336276
336277
336278
336279
336280
336281
336282
336283
336284
336285
336286
336287
336288
336289
336290
336291
336292
336293
336294
336295
336296
336297
336298
336299
336300
336301
336302
336303
336304
336305
336306
336307
336308
336309
336310
336311
336312
336313
336314
336315
336316
336317
336318
336319
336320
336321
336322
336323
336324
336325
336326
336327
336328
336329
336330
336331
336332
336333
336334
336335
336336
336337
336338
336339
336340
336341
336342
336343
336344
336345
336346
336347
336348
336349
336350
336351
336352
336353
336354
336355
336356
336357
336358
336359
336360
336361
336362
336363
336364
336365
336366
336367
336368
336369
336370
336371
336372
336373
336374
336375
336376
336377
336378
336379
336380
336381
336382
336383
336384
336385
336386
336387
336388
336389
336390
336391
336392
336393
336394
336395
336396
336397
336398
336399
336400
336401
336402
336403
336404
336405
336406
336407
336408
336409
336410
336411
336412
336413
336414
336415
336416
336417
336418
336419
336420
336421
336422
336423
336424
336425
336426
336427
336428
336429
336430
336431
336432
336433
336434
336435
336436
336437
336438
336439
336440
336441
336442
336443
336444
336445
336446
336447
336448
336449
336450
336451
336452
336453
336454
336455
336456
336457
336458
336459
336460
336461
336462
336463
336464
336465
336466
336467
336468
336469
336470
336471
336472
336473
336474
336475
336476
336477
336478
336479
336480
336481
336482
336483
336484
336485
336486
336487
336488
336489
336490
336491
336492
336493
336494
336495
336496
336497
336498
336499
336500
336501
336502
336503
336504
336505
336506
336507
336508
336509
336510
336511
336512
336513
336514
336515
336516
336517
336518
336519
336520
336521
336522
336523
336524
336525
336526
336527
336528
336529
336530
336531
336532
336533
336534
336535
336536
336537
336538
336539
336540
336541
336542
336543
336544
336545
336546
336547
336548
336549
336550
336551
336552
336553
336554
336555
336556
336557
336558
336559
336560
336561
336562
336563
336564
336565
336566
336567
336568
336569
336570
336571
336572
336573
336574
336575
336576
336577
336578
336579
336580
336581
336582
336583
336584
336585
336586
336587
336588
336589
336590
336591
336592
336593
336594
336595
336596
336597
336598
336599
336600
336601
336602
336603
336604
336605
336606
336607
336608
336609
336610
336611
336612
336613
336614
336615
336616
336617
336618
336619
336620
336621
336622
336623
336624
336625
336626
336627
336628
336629
336630
336631
336632
336633
336634
336635
336636
336637
336638
336639
336640
336641
336642
336643
336644
336645
336646
336647
336648
336649
336650
336651
336652
336653
336654
336655
336656
336657
336658
336659
336660
336661
336662
336663
336664
336665
336666
336667
336668
336669
3366610
3366611
3366612
3366613
3366614
3366615
3366616
3366617
3366618
3366619
3366620
3366621
3366622
3366623
3366624
3366625
3366626
3366627
3366628
3366629
3366630
3366631
3366632
3366633
3366634
3366635
3366636
3366637
3366638
3366639
3366640
3366641
3366642
3366643
3366644
3366645
3366646
3366647
3366648
3366649
3366650
3366651
3366652
3366653
3366654
3366655
3366656
3366657
3366658
3366659
3366660
3366661
3366662
3366663
3366664
3366665
3366666
3366667
3366668
3366669
33666610
33666611
33666612
33666613
33666614
33666615
33666616
33666617
33666618
33666619
33666620
33666621
33666622
33666623
33666624
33666625
33666626
33666627
33666628
33666629
33666630
33666631
33666632
33666633
33666634
33666635
33666636
33666637
33666638
33666639
33666640
33666641
33666642
33666643
33666644
33666645
33666646
33666647
33666648
33666649
33666650
33666651
33666652
33666653
33666654
33666655
33666656
33666657
33666658
33666659
33666660
33666661
33666662
33666663
33666664
33666665
33666666
33666667
33666668
33666669
336666610
336666611
336666612
336666613
336666614
336666615
336666616
336666617
336666618
336666619
336666620
336666621
336666622
336666623
336666624
336666625
336666626
336666627
336666628
336666629
336666630
336666631
336666632
336666633
336666634
336666635
336666636
336666637
336666638
336666639
336666640
336666641
336666642
336666643
336666644
336666645
336666646
336666647
336666648
336666649
336666650
336666651
336666652
336666653
336666654
336666655
336666656
336666657
336666658
336666659
336666660
336666661
336666662
336666663
336666664
336666665
336666666
336666667
336666668
336666669
3366666610
3366666611
3366666612
3366666613
3366666614
3366666615
3366666616
3366666617
3366666618
3366666619
3366666620
3366666621
3366666622
3366666623
3366666624
3366666625
3366666626
3366666627
3366666628
3366666629
3366666630
3366666631
3366666632
3366666633
3366666634
3366666635
3366666636
3366666637
3366666638
3366666639
3366666640
3366666641
3366666642
3366666643
3366666644
3366666645
3366666646
3366666647
3366666648
3366666649
3366666650
3366666651
3366666652
3366666653
3366666654
3366666655
3366666656
3366666657
3366666658
3366666659
3366666660
3366666661
3366666662
3366666663
3366666664
3366666665
3366666666
3366666667
3366666668
3366666669
33666666610
33666666611
33666666612
33666666613
33666666614
33666666615
33666666616
33666666617
33666666618
33666666619
33666666620
33666666621
33666666622
33666666623
33666666624
33666666625
33666666626
33666666627
33666666628
33666666629
33666666630
33666666631
33666666632
33666666633
33666666634
33666666635
33666666636
33666666637
33666666638
33666666639
33666666640
33666666641
33666666642
33666666643
33666666644
33666666645
33666666646
33666666647
33666666648
33666666649
33666666650
33666666651
33666666652
33666666653
33666666654
33666666655
33666666656
33666666657
33666666658
33666666659
33666666660
33666666661
33666666662
33666666663
33666666664
33666666665
33666666666
33666666667
33666666668
33666666669
336666666610
336666666611
336666666612
336666666613
336666666614
336666666615
336666666616
336666666617
336666666618
336666666619
336666666620
336666666621
336666666622
336666666623
336666

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

ORDER DENYING DEFENDANT'S MOTION
FOR A PROTECTIVE ORDER AND GRANTING
PLAINTIFF'S MOTION TO AMEND
PAGE - 4